

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JEFFREY STEPIEN,

Plaintiff,

v.

JUDGE VITO GEROULO, et al.,

Defendants.

:  
: CIVIL ACTION NO. 3:11-CV-2274

:  
: (JUDGE CONABOY)  
: (Magistrate Judge Carlson)

FILED  
SCRANTON

JAN 17 2012

DEPUTY CLERK

ORDER

AND NOW, THIS 17th DAY OF JANUARY 2012, IT APPEARING TO

THE COURT THAT:

1. Plaintiff, an inmate at the Lackawanna County Prison, Scranton, Pennsylvania, filed this federal civil rights action on December 9, 2011 (Doc. 1);
2. The matter was assigned to Magistrate Judge Martin C. Carlson who issued a Report and Recommendation on December 20, 2011 (Doc. 6);
3. Magistrate Judge Carlson recommends dismissing this action based on application of the extension doctrine found in *Younger v. Harris*, 401 U.S. 37, 41 (1971), and for failure to state a claim upon which relief may be granted (Doc. 6);
4. Magistrate Judge Carlson further recommends that, in an abundance of caution, the dismissal be without prejudice to Plaintiff filing an amended complaint (Doc. 6 at 14);
5. No objections have been filed to the Report and

Recommendation and the time for such filing has passed.


**IT FURTHER APPEARING TO THE COURT THAT:**

1. When a magistrate judge makes a finding or ruling on a motion or issue, his determination should become that of the court unless objections are filed. *See Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Moreover, when no objections are filed, the district court is required only to review the record for "clear error" prior to accepting a magistrate judge's recommendation. *See Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998).

2. Our review of the record reveals no clear error in the Magistrate Judge's conclusions. However, because Plaintiff has filed an Amended Complaint (Doc. 7), we adopt the Magistrate Judge's findings regarding the Complaint (Doc. 1) but we do not dismiss the action without prejudice. Rather, we remand this matter to Magistrate Judge Carlson for screening of Plaintiff's Amended Complaint (Doc. 7)

**ACCORDINGLY, IT IS HEREBY ORDERED THAT:**

1. The Magistrate Judge's Report and Recommendation (Doc. 6) is ADOPTED in part;
2. This matter is remanded to Magistrate Judge Carlson for further proceedings.

  
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RICHARD P. CONABOY  
United States District Judge